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DIGBY ADLER GROUP, LLC d/b/a BANDAGO

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DIGBY ADLER GROUP LLC

Plaintiff,

vs.

IMAGE RENT A CAR, INC., et al.,

Defendants.

Case No. 3:10-cv-00617-SC (BZ)

**DECLARATION OF JEFFREY M.
ROSENFELD IN SUPPORT OF
PLAINTIFF'S MOTION FOR LEAVE
TO FILE FIRST AMENDED
COMPLAINT**

1 I, Jeffrey M. Rosenfeld, declare as follows:

2 1. I am an attorney admitted to practice in the State of California and the
3 United States District Court for the Northern District of California. I am an associate at
4 the law firm of Kronenberger Burgoyne, LLP, counsel of record for Plaintiff Digby Adler
5 Group LLC. Unless otherwise stated I have personal knowledge of the facts set forth in
6 this declaration.

7 2. On July 29, 2010, staff in my office served written discovery requests on
8 Defendants by first class mail.

9 3. Defendants refused to respond to this discovery until December 2, 2010—
10 only after Plaintiff filed a motion to compel.

11 4. Based on the newly-discovered facts found within Defendants' discovery
12 responses and the documents produced by third-parties Google, Inc. and Network
13 Solutions, Inc., I drafted Plaintiff's First Amended Complaint ("FAC") and requested that
14 Defendants consent to the filing of the FAC. Attached hereto as Exhibit A is a true and
15 correct copy of the email I sent to Levi Huebner, counsel for Defendants, on January 20,
16 2011, where I notified Mr. Huebner of Plaintiff's intent to amend the complaint and
17 requested Defendants stipulate to the filing of Plaintiff's first amended complaint. Mr.
18 Huebner did not respond to my email of January 20, 2011.

19 5. On January 24, 2011, I contacted Mr. Huebner by phone, and left him a
20 voicemail, requesting he contact me to discuss several discovery matters and Plaintiff's
21 request for leave to file its amended pleading. Mr. Huebner did not return my phone call.

22 6. On January 25, 2011, I sent Mr. Huebner another email, reminding him
23 that Plaintiff has requested that Defendants stipulate to Plaintiff's filing of its amended
24 complaint and that his lack of response would force Plaintiff to seek Court relief.
25 Attached hereto as Exhibit B is a true and correct copy of my email of January 25, 2011
26 to Mr. Huebner. I still have not received a response from Mr. Huebner.

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1 I declare under penalty of perjury under the laws of the United States of America
2 that the foregoing is true and correct and that this Declaration was executed on January
3 26, 2011, in San Francisco, California.

4 s/ Jeffrey M. Rosenfeld

5 Jeffrey M. Rosenfeld

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